IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE JURISDICTION

CONTEMPT PETITION NO. 326 OF 1996

Hering & Kent .. Appellant

vs

Bilquees Begum .. Respondent

Ms.Gauri Jadhav for Appellant

Mr.J.P.Daiya for Respondent

..

CORAM : B.H.MARLAPALLE, J

DATE: 21st September, 2005

P.C.

1. In this Contempt Petition, it is alleged by the petitioner firm that the respondent Mrs Bilquees Begum acted willfully in disobedience of the order dated 11th Otober, 1993 passed by the learned Judge of the Small Causes Court at Mumbai in Injunction Notice No.235 of 1993. The averments regarding the

contempt have been set out in para 7 and 8 which do not make out a case of contempt for taking cognizance within a period of 1 year as contemplated under section 20 of the Contempt of Court Act, 1971. In para 9 it has been stated that from 2nd August, 1996 the respondent started harassing by putting a lock to the ground floor as well as not allowing the servant on the lift of the petitioner and its customers.

2. In the affidavit in reply, the respondent has clarified that with a view to safeguard the interest of all the applicants/tenants and their properties and also the suit building the main gate of the building is locked as per the normal practice from 9 p.m. to 9 a.m. and this is also to avoid any nuisance from anti-social elements. As far as the lift is concerned the order passed by the Small Causes Court Mumbai on 11th October, 1993 does not cover the same. The Commissioner’s report dated 20th January, 1996 brought on record along with the affidavit in reply also shows that there is no case of contempt made out. Mr. N.S.Kimtee the Chief Executive Officer of the petitioner firm has filed an additional affidavit on 22nd June,

1998 and again reiterated the alleged acts of the respondent in causing obstruction in using of the lift.

3. In the premises, there is no case made out of either contempt within the meaning of section 3 (b) of the Contempt of Court Act, 1971. Hence, this petition fails and the same is hereby dismissed.

(B.H.Marlapalle, J)